



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/100,223	06/19/1998	DOUGLAS WALTER CONMY	52817.000051	8325

29315 7590 08/14/2002

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE, SUITE 400
RESTON, VA 20190

EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 08/14/2002

28

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary	Application No.	Applicant(s)
	09/100,223	CONMY, DOUGLAS WALTER
	Examiner	Art Unit
	Susanna M. Diaz	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 June 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-39 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-39 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

1. This final office action is responsive to Applicant's response filed June 24, 2002.

Claim 32 has been amended.

Claims 1-39 remain pending for examination.

2. The previously pending rejection of claim 32 under 35 U.S.C. 112, 2nd paragraph, is withdrawn in response to Applicant's amendment of claim 32.

Response to Amendment

3. The declaration filed on June 24, 2002 under 37 CFR 1.131 has been considered but is ineffective to overcome the Microsoft Outlook 97 references applied in the art rejection. MPEP §715.07 states:

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.").

Applicant's asserted "evidence" merely comprises "a copy of the listing of the source code files from an archived CD-ROM disk" (¶ 10 of Applicant's affidavit).

Applicant then provides a brief description of the contents of each file, yet Applicant fails to explain how each of these files specifically corresponds to the claimed invention. Further, Applicant has not presented evidence, beyond a mere assertion, regarding the actual contents of each file (e.g., the actual source code itself has not been disclosed). Applicant's asserted "evidence" amounts to "[v]ague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice" (MPEP §715.07). As stated in MPEP §715.07, such a declaration is ineffective in swearing behind references used in a rejection. In the instant case, Applicant has failed to effectively swear behind the various Microsoft Outlook 97 references, especially the one dating Microsoft Outlook 97 as far back as November 1, 1996.

Since Applicant's declaration under 37 CFR 1.131 is ineffective in overcoming the prior art rejection, said rejection is maintained and reproduced below for Applicant's convenience.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft Outlook 97, as disclosed in the book, The ABCs of Outlook 97, the article,

"The Future is Bright for Microsoft Outlook 97," and the book entitled Running Microsoft Outlook 97, and further in view of Tognazzini (U.S. Patent No. 5,790,974). The ABCs of Outlook 97 was published on March 17, 1997 (according to the Library of Congress Copyright web site) and discloses many of the details of Microsoft Outlook 97's scheduling functions. The article, "The Future is Bright for Microsoft Outlook 97," makes reference to Microsoft Outlook 97's scheduling functions as early as November 1, 1996, thereby providing evidence that Microsoft Outlook 97 dates back as far as November 1, 1996. Running Microsoft Outlook 97 (Chapter 8 in particular) reiterates the disclosure found in The ABCs of Outlook 97 while providing more easily readable evidence of the graphical interface of Microsoft Outlook 97 corresponding to the functions disclosed in The ABCs of Outlook 97.

Microsoft Outlook 97 discloses a system for scheduling time intervals for a plurality of invitees in a networked environment comprising:

[Claim 1] database means for storing one or more invitee profiles for one or more potential invitees of the system, the one or more invitee profiles comprising user profiles wherein each user profile comprises information regarding available and unavailable times for that user, the database means being located at one or more server locations (The ABCs of Outlook 97: pages 10-3 through 10-8 -- The schedules, i.e., part of the profiles, of potential attendees may be displayed to a meeting coordinator in order to assist in setting up a good meeting time);

request generating means, located remotely from the server locations, for generating a request for allocation of a time interval for the one or more potential invitees (The ABCs of Outlook 97: pages 10-3 through 10-8 -- The meeting coordinator sends out meeting invitations to the potential attendees);

busy time determination means for gathering the invitee profiles for the one or more potential invitees and determining whether each of the one or more potential invitees is available during the time interval requested by the request generating means (The ABCs of Outlook 97: pages 10-7 through 10-8 -- Outlook can be set up to automatically accept or decline a meeting invitation based on a potential invitee's availability. This function can be carried out manually as well).

Furthermore, as per claim 1, Microsoft Outlook 97 teaches a graphical user interface means associated with the request generating means for displaying results from the busy time determination means, the graphical user interface means permitting a user to view a list of the one or more potential invitees that are available, the one or more potential invitees that are not available, and the one or more potential invitees whose schedule could not be found (The ABCs of Outlook 97: page 10-5, If an invitee's schedule cannot be found, it will be evident by its failure to be displayed along with the other invitees' schedules). However, Microsoft Outlook 97 does not explicitly disclose that a user may select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option

displaying the one or more potential invitees whose schedule could not be found, and then display the results according to the viewing option selected. The Examiner asserts that the display of filtered data based on a selected viewing option is old and well-known in the art of graphical user interfaces. Such a capability is commonly utilized to aid a user in focusing on specific subsets of data at a time, thereby making analysis of the data easier than if an excessively large amount of varying data were presented all at once. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to provide a user of Microsoft Outlook 97 with the ability to select from at least three results viewing options including a viewing option displaying the one or more potential invitees that are available, a viewing option displaying the one or more potential invitees that are not available and a viewing option displaying the one or more potential invitees whose schedule could not be found, and then display the results according to the viewing option selected in order to facilitate the user's decision regarding an adequate meeting date and time by providing viewing options which present various subsets of availability data in a more organized and more easily interpretable fashion.

[Claims 2, 3] Microsoft Outlook 97 does not explicitly take invitee and event location into account in order to determine invitee availability for a particular event; however, Tognazzini makes up for this deficiency. Tognazzini teaches an automated scheduling system which takes into account event location and invitee location in order to determine if the invitee can feasibly attend the event in question (e.g., based on travel time). There may be a periodic real-time check to see where the invitee is presently

located and then if the invitee can arrive at his/her next planned event in time, based on a real-time determination of travel time to the next scheduled event. An alert is provided if the invitee is running late or stuck in traffic and cannot make his/her next scheduled event in time. Also, travel time is taken into account when determining an invitee's ability to attend a future event (column 7, lines 11-66). This consideration of travel time between locations and events helps alleviate any conflicts in scheduling that would otherwise arise due to failure to take into account the reality that travel time is needed to get from one location to another. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement Tognazzini's consideration of event location and invitee location, including travel time, when determining invitee availability (as per claims 21 and 22) with Microsoft Outlook 97 in order to provide for more accurate and realistic assessment of the availability of all invitees when planning an event. For example, if one of the invitees is listed as available for a meeting at 2 p.m. E.S.T. on a particular day in Washington, D.C., but the invitee is out in San Francisco for a meeting which runs from 12 to 1 p.m. E.S.T. (9 to 10 a.m. P.S.T.), obviously the invitee cannot likely fly back to make the meeting in Washington, D.C. within an hour. The integration of Tognazzini's scheduling features enables Microsoft Outlook 97 to take such location considerations into account, thereby resulting in more "intelligent" scheduling decisions being made by Microsoft Outlook 97 as part of its automatic scheduling features.

Furthermore, Microsoft Outlook 97 discloses profile information for an invitee comprising information regarding the invitee's work hours (The ABCs of Outlook 97:

page 8-4) and the time zone in which the invitee works (The ABCs of Outlook 97: page 8-4); however, Microsoft Outlook 97 does not explicitly teach the inclusion of the location where the invitee works in the invitee's profile. In light of the discussion found immediately above, the Microsoft Outlook 97-Tognazzini combination would inherently include information about where the invitee works in the invitee's profile in order to use this location information when appropriate for determining travel time between different event locations.

[Claim 11] Microsoft Outlook 97 discloses that the user profile stores information on the user's work hours and non-work hours (The ABCs of Outlook 97: page 10-3); however, there is no explicit disclosure stating that Microsoft Outlook 97's calendaring system takes into account the user's work hours and non-work hours when determining that user's available and unavailable times. Since users and potential invitees are likely not working during non-work hours, it would be useful to a meeting coordinator to know what the non-work hours of these potential invitees are in order to avoid scheduling a meeting during non-work hours (just as the meeting coordinator tries to schedule meetings around any other times of unavailability, e.g., those labeled as "busy" or "out of office"). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to take a user's work hours and non-work hours into account when determining the user's available and unavailable times, as part of Microsoft Outlook 97, in order to facilitate the planning of a meeting at a date and time that is amenable to all interested parties.

[Claims 12, 21] Microsoft Outlook 97 teaches that the calendaring system assigns values to one or more characteristics, wherein the calendaring system takes into account the values assigned when determining the user's availability. Furthermore, Microsoft Outlook 97 comprises best fit determining means for determining whether any of the one or more potential invitees are unavailable during the time interval requested by the request generating means and for determining a next best time interval using a weighting function if it is determined that any of the one or more potential invitees are unavailable during the requested time interval (The ABCs of Outlook 97: pages 10-3 and 10-5 -- Potential attendees are labeled by the meeting coordinator as either required or optional attendees. Alternative meeting dates and times may be selected based on the next available time common to all attendees, i.e., both required and optional attendees, or the next available time common only to all required attendees. A higher weighting value is inherently associated with the required attendees than with the optional ones).

[Claims 4, 13-16, 22] Claims 4, 13-16, and 22 recite limitations already addressed by the rejection of claims 1-3, 11, 12, and 21 above; therefore, the same rejection applies.

[Claims 5, 17-20, 23] Claims 5, 17-20, and 23 recite limitations already addressed by the rejection of claims 1-3, 11, 12, and 21 above; therefore, the same rejection applies.

[Claims 6-10, 24] Claims 6-10 and 24 recite limitations already addressed by the rejection of claims 1-3, 11, 12, and 21 above; therefore, the same rejection applies.

[Claims 25-32] Claims 25-32 recite limitations already addressed by the rejection of claims 1-3, 11, 12, and 21 above; therefore, the same rejection applies. Furthermore (as per claims 26-28), while Microsoft Outlook 97 displays a list indicating which invitees are free, which are busy, and which for whom no schedule is available during a proposed meeting time, Microsoft Outlook 97 does not expressly teach the display of an accompanying number to quantify the number of invitees that fall into each respective category. However, the Examiner asserts that quantifying the number of people in different categories is old and well-known. This facilitates analysis of characteristics of the different groups of people identified. In this case, such an analysis would help a meeting coordinator decide when most people could attend a meeting at a particular date and time. Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to display the number of invitees that are either not busy, busy, and which for whom no schedule is available during a proposed meeting time in order to help a meeting coordinator more effectively assess a good meeting date and time for the list of invitees. Also, a head count of which invitees will attend the meeting is useful in letting the meeting coordinator determine which and how many resources are needed for the meeting (e.g., conference room size, number of chairs needed, etc.).

[Claims 33-39] Claims 33-39 recite limitations already addressed by the rejection of claims 1-3, 11, 12, 21, and 25-32 above; therefore, the same rejection applies.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Kvitka ("Outlook Presents a Great Picture") – Discloses the details of a beta version of Microsoft Outlook 97, including its group scheduling features. This article was published on August 26, 1996.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks
Washington D.C. 20231***

or faxed to:

(703)305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

(703)746-7048 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.

SMD *SMD*
August 9, 2002

[Handwritten signature of Tariq R. Hafiz]
TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600